

Consistency of State and Federal standards is required by SMCRA.

## **VI. Procedural Determinations**

### **1. Executive Order 12866**

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

### **2. Executive Order 12778**

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

### **3. National Environmental Policy Act**

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

### **4. Paperwork Reduction Act**

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

### **5. Regulatory Flexibility Act**

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a

substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

## **List of Subjects in 30 CFR Part 918**

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 13, 1995.

**Charles E. Sandberg,**

*Acting Assistant Director, Western Support Center.*

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

## **PART 918—LOUISIANA**

1. The authority citation for part 918 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 918.15 is amended by adding paragraph (e) to read as follows:

### **§ 918.15 Approval of amendments to the Louisiana regulatory program.**

\* \* \* \* \*

(e) Revisions to the following rules, as submitted to OSM on November 2, 1994, are approved effective January 24, 1995:

LSMR 5423.B.4.a, revegetation success standards on reclaimed land developed for use as forestry, and Policy Statement PS-5, Revegetation Success Standards for Tree and Shrub Stocking on Lands with a Postmining Land Use of Forestry.

3. Section 918.16 is amended by revising the introductory paragraph, removing and reserving paragraph (a), and removing paragraph (b) to read as follows:

### **§ 918.16 Required program amendments.**

Pursuant to 30 CFR 732.17(f)(1), Louisiana is required to submit to OSM by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed, that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Louisiana's established administrative or legislative procedures.

(a) [Reserved].

[FR Doc. 95-1707 Filed 1-23-95; 8:45 am]

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## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

### **32 CFR Part 23**

RIN 0790-AF87

### **Grants and Agreements—Military Recruiting on Campus**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Interim rule.

**SUMMARY:** The Department of Defense adopts this interim rule to implement Section 558 of the National Defense Authorization Act for Fiscal Year 1995 [Public Law 103-337 (1994)], as it applies to grants. Section 558 states that funds available to the Department of Defense may not be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: entry to campuses; access to students on campuses; or access to directory information pertaining to students. The rule implements the law, as it applies to grants, by requiring inclusion of an appropriate clause in DoD grants with institutions of higher education. It also extends the requirement, as a matter of policy, to DoD cooperative agreements, because they are very similar to grants.

**DATES:** This interim rule is effective on January 24, 1995. Written comments on this rule must be received by March 27, 1995.

**ADDRESSES:** Forward comments to the Director for Research, 3080 Defense Pentagon, Washington, DC 20301-3080.

**FOR FURTHER INFORMATION CONTACT:** Mark Herbst, (703) 614-0205.

### **SUPPLEMENTARY INFORMATION:**

#### **Executive Order 12866**

This rule is not a "significant regulatory action," as defined by Executive Order 12866. The Department of Defense believes that it will not: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or

the principles set forth in Executive Order 12866.

**Regulatory Flexibility Act of 1980 [5 U.S.C. 605(b)]**

This regulatory action will not have a significant adverse impact on a substantial number of small entities.

**Paperwork Reduction Act of 1980 (44 U.S.C., Chapter 35)**

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

**List of Subjects in 32 CFR Part 23**

Grant programs.

Accordingly, Title 32, Chapter I, Subchapter B of the Code of Federal Regulations is amended to add Part 23 to read as follows:

**PART 23—GRANTS AND AGREEMENTS—MILITARY RECRUITING ON CAMPUS**

Sec.

23.1 Military recruiting on campus.

**Authority:** 5 U.S.C. 301.

**§ 23.1 Military recruiting on campus.**

(a) *Clause for award documents.* (1) Grants officers shall include the following clause in grants and cooperative agreements with institutions of higher education:

“As a condition for receipt of funds available to the Department of Defense (DoD) under this award, the recipient agrees that it is not an institution that has a policy of denying, and that it is not an institution that effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: (A) Entry to campuses or access to students on campuses; or (B) access to directory information pertaining to students. If the recipient is determined, using procedures established by the Secretary of Defense to implement section 558 of Public Law 103-337 (1994), to be such an institution during the period of performance of this agreement, and therefore to be in breach of this clause, the Government will cease all payments of DoD funds under this agreement and all other DoD grants and cooperative agreements, and it may suspend or terminate such grants and agreements unilaterally for material failure to comply with the terms and conditions of award.”

(2) If a recipient refuses to accept the clause in paragraph (a)(1) of this section, the grants officer shall determine that the recipient is not qualified with respect to the award, and may award to an alternative recipient.

(b) *Language for program solicitations.* (1) To notify prospective recipients of the requirement in paragraph (a) of this section, grants officers shall include the following

notice in program announcements or solicitations under which grants or cooperative agreements may be awarded to institutions of higher education:

“This is to notify potential proposers that each grant or cooperative agreement that is awarded under this announcement or solicitation to an institution of higher education must include the following clause:

“As a condition for receipt of funds available to the Department of Defense (DoD) under this award, the recipient agrees that it is not an institution that has a policy of denying, and that it is not an institution that effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: (A) Entry to campuses or access to students on campuses; or (B) access to directory information pertaining to students. If the recipient is determined, using procedures established by the Secretary of Defense to implement section 558 of Public Law 103-337 (1994), to be such an institution during the period of performance of this agreement, and therefore to be in breach of this clause, the Government will cease all payments of DoD funds under this agreement and all other DoD grants and cooperative agreements, and it may suspend or terminate such grants and agreements unilaterally for material failure to comply with the terms and conditions of award.”

“If your institution has been identified under the procedures established by the Secretary of Defense to implement section 558, then: (1) No funds available to DoD may be provided to your institution through any grant, including any existing grant; (2) as a matter of policy, this restriction also applies to any cooperative agreement; and (3) your institution is not eligible to receive a grant or cooperative agreement in response to this solicitation.”

(2) Grants officers may include introductory language with the language in paragraph (b)(1) of this section, to tailor the notice to the circumstances of the particular announcement (e.g., to reflect a Broad Agency Announcement under which a DoD Component would award contracts, as well as grants and cooperative agreements). However, the language and the intent in paragraph (b)(1) may not be changed without the approval of the Director, Defense Research and Engineering [requests for such approval are to be submitted, through appropriate channels, to: Director for Research, ODDR&E(R), 3080 Defense Pentagon; Washington, DC 20301-3080].

Dated: January 19, 1995.

**Linda M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

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**Department of the Air Force**

**32 CFR Part 989**

RIN 0701-AA36

**Environmental Impact Analysis Process (EIAP)**

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Air Force revised its regulations to update the Air Force process for compliance with the National Environmental Policy Act and Executive Order 12114, Environmental Effects Abroad of Major Federal Actions. This revision provides policy and guidance for consideration of environmental matters in the Air Force decision-making process. It implements the Council on Environmental Quality regulations and 32 CFR Part 188 as well as Executive Order 12114.

**EFFECTIVE DATE:** January 24, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth L. Reinertson or Mr. Jack C. Bush, (HQ USAF/CEVP), 1260 Air Force Pentagon, Washington, DC 20330-1260, telephone, (703) 695-8942.

**SUPPLEMENTARY INFORMATION:**

**Discussion of Major Issues**

Unless otherwise noted, the discussions in the following paragraphs only address issues where public comments were received and clarification is required. For portions of the final rule where comments were not received, the final rule is consistent with the proposed rule, and no further discussions are included. Portions of the proposed rule have also been changed so the final rule more clearly states the intended meaning. Some of these changes are based on public input, but are not addressed in a specific discussion.

Readers should note that as part of a reduction of bulk and clarification of this rule, specific reformatting has been accomplished. Section 989.9, formerly titled, Lead and cooperating agency, is now titled, Cooperation and adoption.

Section 989.32, Definitions, has now changed to, Attachment 1—Glossary of References, Abbreviations, Acronyms, and Terms. Section 989.32 is now titled, Procedures for analysis abroad, and § 989.33, Categorical exclusions, is now, Attachment 2—Categorical Exclusions.

Environmental considerations—global commons, § 989.34 and, Environmental considerations—foreign nations and protected global resources, § 989.35, have been reorganized as § 989.32, Procedures for analysis abroad,